

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING CERTAIN §
RULES OF THE DELAWARE LAWYERS' §
RULES OF PROFESSIONAL CONDUCT §
AND OF THE LAWYERS' FUND FOR §
CLIENT PROTECTION PERTAINING TO §
LAWYER BANK ACCOUNTS §

Before **STEELE**, Chief Justice, **HOLLAND, BERGER, JACOBS**, and **RIDGELY**,
Justices, constituting the Court *en Banc*.

ORDER

This 20th day of October, 2008, it appears to the Court that it is desirable to
amend certain rules and requirements pertaining to lawyer bank accounts.

NOW, THEREFORE, IT IS ORDERED that the following changes shall
become effective January 1, 2009:

(1) Rule 1.15(a) of the Delaware Lawyers' Rules of Professional Conduct
("DLRPC") is hereby amended by deleting the second sentence and substituting the
following in lieu thereof: "Funds shall be kept in a separate account designated solely
for funds held in connection with the practice of law in this jurisdiction. Such funds
shall be maintained in the state in which the lawyer's office is situated, or elsewhere
with the consent of the client or third person."

(2) Rule 1.15(d) of the DLRPC is hereby amended by deleting the first
sentence of the present rule and substituting the following in lieu thereof: "A lawyer
engaged in the private practice of law in this jurisdiction, whether in an office situated

in this jurisdiction or otherwise, must maintain on a current basis financial books and records relating to such practice, and shall preserve the books and records for at least five years following the completion of the year to which they relate, or, as to fiduciary books and records, five years following the completion of that fiduciary obligation.”

(3) Rule 1.15(d) of the DLRPC is hereby amended by deleting subsection (1) of the present rule and substituting the following in lieu thereof: “All bank statements, cancelled checks (or images and/or copies thereof as provided by the bank), and duplicate deposit slips relating to fiduciary and non-fiduciary accounts must be preserved.”

(4) Rule 1.15(d) of the DLRPC is hereby amended by deleting subsection (2) of the present rule and substituting the following in lieu thereof: “Bank accounts maintained for fiduciary funds must be specifically designated as ‘Rule 1.15A Attorney Trust Account’ or ‘1.15A Trust Account’ or ‘Rule 1.15A Attorney Escrow Account’ or ‘1.15A Escrow Account,’ and must be used only for funds held in a fiduciary capacity. A designation of the account as a ‘Rule 1.15A Attorney Trust Account’ or ‘1.15A Trust Account’ or ‘Rule 1.15A Attorney Escrow Account’ or ‘1.15A Escrow Account,’ must appear in the account title on the bank statement. Other related statements, checks, deposit slips, and other documents maintained for fiduciary funds, must contain, at a minimum, a designation of the account as ‘Attorney

Trust Account’ or ‘Attorney Escrow Account.’”

(5) Rule 1.15(d)(9) of the DLRPC is hereby amended by redesignating subsection (G) of the present rule as subsection (H), and adding a new subsection (G) as follows: “No funds which should have been disbursed shall remain in the account, including, but not limited to, earned legal fees, which must be transferred to the lawyer’s non-fiduciary account on a prompt and timely basis when earned.”

(6) Rule 1.15(d) of the DLRPC is hereby amended by deleting subsection (10) of the present rule and substituting the following in lieu thereof: “If a lawyer maintains financial books and records using a computer system, the lawyer must cause to be printed each month a hard copy of all monthly journals, ledgers, reports, and reconciliations, and/or cause to be created each month an electronic backup of these documents to be stored in such a manner as to make them accessible for review by the lawyer and/or the auditor for the Lawyers’ Fund for Client Protection.”

(7) Rule 1.15(m) of the DLRPC is hereby deleted, and Rule 1.15(n) of the present rule is hereby redesignated as Rule 1.15(m).

(8) Rule 1.15(m) of the DLRPC, as redesignated herein, is hereby amended by deleting the first sentence of the present rule, and substituting the following in lieu thereof: “A lawyer shall not disburse fiduciary funds from a bank account unless the funds deposited in the lawyer’s fiduciary account to be disbursed, or the funds which

are in the lawyer's unrestricted possession and control and are or will be timely deposited, are good funds as hereinafter defined."

(9) Comment [5] to Rule 1.15 of the DLRPC is hereby amended by deleting the first sentence of the present Comment [5], and substituting the following in lieu thereof: "The extensive provisions contained in Rule 1.15(d) represent the financial recordkeeping requirements that lawyers must follow when engaged in the private practice of law in this jurisdiction."

(10) Comment [7] to Rule 1.15 of the DLRPC is hereby amended by deleting the word "Delaware" in its first sentence.

(11) Comment [8] to Rule 1.15 of the DLRPC is hereby amended by deleting the word "Delaware" in its first sentence.

(12) Rule 1.15A of the DLRPC is hereby amended by redesignating subsection (h) of the present rule as subsection (a), and redesignating subsections (a), (b), (c), (d), (e), (f), and (g) of the present rule as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

(13) Rule 1.15A(a) of the DLRPC, as redesignated herein, is hereby amended by deleting the present rule and substituting the following in lieu thereof: "Every attorney practicing or admitted to practice in this jurisdiction shall designate every account into which attorney trust or escrow funds are deposited either as 'Rule 1.15A

Attorney Trust Account’ or ‘1.15A Trust Account’ or ‘Rule 1.15A Attorney Escrow Account’ or ‘1.15 Escrow Account,’ pursuant to Rule 1.15(d)(2).”

(14) Rule 1.15A(b) of the DLRPC, as redesignated herein, is hereby amended by deleting its first sentence and substituting the following in lieu thereof: “Bank accounts designated as ‘Rule 1.15A Attorney Trust Account’ or ‘1.15A Trust Account’ or ‘Rule 1.15A Attorney Escrow Account’ or ‘1.15A Escrow Account,’ pursuant to Rule 1.15(d)(2) shall be maintained only in financial institutions approved by the Lawyers’ Fund for Client Protection (the “Fund”).”

(15) The title of the “Rules of the Trustees of the Lawyers’ Fund for Client Protection of the Bar of Delaware” is hereby amended by deleting the title in its entirety, and substituting the following in lieu thereof: “Rules of the Trustees of the Lawyers’ Fund for Client Protection of the Supreme Court of Delaware.”

(16) General Audit Objective 2 of Rule 11 of the Rules of the Trustees of the Lawyers’ Fund for Client Protection of the Supreme Court of Delaware (“RTLFCP”) is hereby amended by deleting the first sentence of the present language and substituting the following in lieu thereof: “Verify that all bank accounts (both fiduciary and non-fiduciary) are listed on the ANNUAL REGISTRATION STATEMENT, and that all bank accounts for funds held in connection with the practice of law in Delaware are used solely for that purpose.”

(17) General Audit Objectives 2a and 2b of Rule 11 of the RLFCP are hereby amended by redesignating them as Audit Objectives 2b and 2c, respectively, and adding a new Audit Objective 2a as follows: “Obtain and attach to the audit report a copy of the first page of the latest bank statement for each bank account which the attorney or a member of the law firm has power to control, draw on or deposit in (including not only open accounts, but also any accounts open at any time during the prior calendar year).”

(18) General Audit Objective 2b of Rule 11 of the Rules of the RLFCP, as redesignated herein, is hereby amended by deleting the first sentence of the present rule and substituting the following in lieu thereof: “If any bank accounts which the attorney or a member of the law firm has power to control, draw on or deposit in (including not only open accounts, but also any accounts open at any time during the prior calendar year) is not listed, note here the omitted bank account information requested on the ANNUAL REGISTRATION STATEMENT.”

(19) General Audit Objective 2c of Rule 11 of the RLFCP, as redesignated herein, is hereby amended by deleting its present language and substituting the following in lieu thereof: “If a bank account, maintained in connection with the practice of law in Delaware, is located outside the State of Delaware, note here and indicate purpose.”

(20) General Audit Objective 2 of Rule 11 of the RLFCP is hereby amended by adding a new subsection 2d, as follows: “If a bank account, maintained in connection with the practice of law in Delaware, also contains funds for the practice of law in another jurisdiction, note here and indicate purpose.”

(21) Non-Fiduciary Funds Audit Objective A2(1)a of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following in lieu thereof: “Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank).”

(22) Fiduciary Funds Audit Objective B2(1)a of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following in lieu thereof: “Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank).”

(23) Fiduciary Funds Audit Objective B1(14)c of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following in lieu thereof: “Examine cancelled checks (or images and/or copies thereof as provided by the bank) to verify disbursements.”

(24) Real Estate Funds Audit Objective B2(1)(a) of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following in lieu thereof: “Bank statements, deposit tickets, and cancelled checks (or images

and/or copies thereof as provided by the bank).”

(25) The Clerk of this Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE COURT:

/s/ Randy J. Holland
Justice

SUGGESTED REPORT FORMAT

(Independent CPA letterhead)

(Date)

Executive Director, Lawyers' Fund for Client Protection
Carvel State Office Building
820 North French Street, 11th Floor
Wilmington, DE 19801

Re: (Name of Attorney or Firm)
(Address)

Dear Executive Director:

We have performed an audit of our client, noted above, for the specific purpose of determining their (his/her) compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. The audit procedures used were those contained in the Audit Program of the Lawyers' Fund for Client Protection and this report relates only to those items.

Based on our audit, there were no findings/exceptions, and in our opinion (attorney/firm name) is in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct.

or

Based on our audit, (attorney/firm name) is not in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. We found the following exceptions:

- 1)
- 2)
- 3)

These exceptions will be resolved as follows:

(Attorney/firm name) understands that our audit and submission of this report does not preclude an audit performed by the auditor of the Lawyers' Fund for Client Protection.

Enclosed is a copy of a completed Audit Program with appropriate work papers.

Very truly yours,

(CPA firm signature)

LAWYERS' FUND FOR CLIENT PROTECTION

Audit Program to Determine Compliance with Rule 1.15 and Rule 1.5(f) of the Delaware Lawyers' Rules of Professional Conduct

This completed audit program must be attached to your report.

Attorney _____ Audit Date _____

Audited by (Firm Name) _____

AUDIT OBJECTIVES

GENERAL

- I** Attorney is in compliance with Rule 1.15 and Rule 1.5(f) and has properly answered all of the statements on the CERTIFICATE OF COMPLIANCE.

SPECIFIC

A. NON-FIDUCIARY FUNDS

1. Attorney maintains financial control over law practice.
2. Proper records are maintained.
3. Reconciliations are performed each month.

B. FIDUCIARY FUNDS

1. Client funds are safeguarded.
2. Proper records are maintained.
3. Reconciliations are performed each month.
4. There is no commingling of attorney funds and client funds.
5. Interest earned on client funds is either credited and/or paid to the client or the interest is credited and paid to IOLTA.

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index									
I	<p>GENERAL</p> <p>1. Obtain a copy of the latest ANNUAL REGISTRATION STATEMENT and the latest CERTIFICATE OF COMPLIANCE filed with the Supreme Court. (These forms are due by January 31 of each year.)</p> <p style="padding-left: 40px;">a. If these forms were not filed when due, attach an explanation from the attorney indicating the date they will be filed.</p> <p style="padding-left: 40px;">b. Verify that all questions are answered properly.</p> <p style="padding-left: 40px;">c. A "NO" answer to any of the items on the CERTIFICATE OF COMPLIANCE indicates non-compliance. If there is a "NO" answer to any item, attach a letter from the attorney explaining the reason for non-compliance and a statement indicating when the attorney will be in compliance.</p> <p>2. Verify that all bank accounts (both fiduciary and non-fiduciary) are listed on the ANNUAL REGISTRATION STATEMENT and that all bank accounts for funds held in connection with the practice of law in Delaware are used solely for that purpose.</p> <p style="padding-left: 40px;">a. Obtain and attach to the audit report a copy of the first page of the latest bank statement for each bank account which the attorney or a member of the law firm has power to control, draw on or deposit in (including not only open accounts, but also any accounts open at any time during the prior calendar year).</p> <p style="padding-left: 40px;">b. If any bank accounts which the attorney or a member of the law firm has power to control, draw on or deposit in, (including not only open accounts, but also any accounts open at any time during the prior calendar year) is not listed, note here the omitted bank account information requested on the ANNUAL REGISTRATION STATEMENT.</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; border-bottom: 1px solid black;">BANK NAME</td> <td style="width: 33%; text-align: center; border-bottom: 1px solid black;">ACCOUNT NAME</td> <td style="width: 33%; text-align: center; border-bottom: 1px solid black;">ACCOUNT No.</td> </tr> <tr> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black;"></td> </tr> </table> <p style="padding-left: 40px;">c. If a bank account, maintained in connection with the practice of law in Delaware, is located outside the state of Delaware, note here and indicate purpose.</p> <p style="padding-left: 40px;">d. If a bank account, maintained in connection with the practice of law in Delaware, also contains funds for the practice of law in another jurisdiction, note here and indicate purpose.</p> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 10px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 10px;"></div>	BANK NAME	ACCOUNT NAME	ACCOUNT No.									
BANK NAME	ACCOUNT NAME	ACCOUNT No.											

I	<p>3. Verify that all books and records which establish compliance are retained for a minimum period of five years after the completion of the year to which they relate. Fiduciary records must be retained for at least five years following the completion of the fiduciary obligation.</p> <p>4. Indicate form of practice:</p> <p>() Sole proprietorship () Professional corporation</p> <p>() Partnership () Other: _____</p> <p>5. If firm name implies partnership or association form of practice, determine that records are maintained and tax returns are filed accordingly, i.e., as a firm and not as individual practitioners.</p>		
A1	<p>6. Inquire whether all federal, state, and city income and gross receipts tax returns have been filed and paid on a timely basis.</p>		

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
<p>A2</p> <p>A1</p> <p>A2</p> <p>A2</p> <p>A3</p>	<p>NON-FIDUCIARY FUNDS</p> <p><i>The period of review of records of non-fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p> <p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the year to which they relate. These records are:</p> <p style="padding-left: 40px;">a. Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank)</p> <p style="padding-left: 40px;">b. Cash receipts and cash disbursements journals</p> <p style="padding-left: 40px;">c. Monthly cash reconciliations</p> <p>2. Obtain bank statements and review for NSF checks or overdraft balances other than those caused by deposits of client payments which were covered by the client or the attorney without undue delay. Attach detailed listing, if any, with the attorney's explanation.</p> <p>3. Obtain cash receipts journal.</p> <p style="padding-left: 40px;">a. Determine that entries identify source and date.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p style="padding-left: 40px;">c. Determine that cash receipts entries can be proved to deposit totals.</p> <p>4. For each bank account, obtain cash disbursements journal.</p> <p style="padding-left: 40px;">a. Determine that entries show date, payee, and expense type.</p> <p style="padding-left: 40px;">b. Ascertain that journal has monthly totals.</p> <p>5. Audit monthly cash and bank reconciliations.</p> <p style="padding-left: 40px;">a. Manual system:</p> <p style="padding-left: 80px;">+ beginning cash balance</p> <p style="padding-left: 80px;">+ cash receipts (-) cash disbursements</p> <p style="padding-left: 80px;">= ending cash balance/checkbook balance</p> <p style="padding-left: 80px;">= adjusted bank balance</p> <p style="padding-left: 80px;">-or-</p> <p style="padding-left: 80px;">general ledger balance = adjusted bank balance</p> <p style="padding-left: 40px;">b. Computer system:</p> <p style="padding-left: 80px;">Check register (or general ledger) balance = adjusted bank balance</p>			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
<p>B2</p> <p>B1</p> <p>B5</p> <p>B2</p> <p>B2</p> <p>B3</p>	<p>FIDUCIARY FUNDS</p> <p><i>The period of review of records of fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p> <p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the fiduciary obligation. These records are:</p> <ul style="list-style-type: none"> a. Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank) b. Cash receipts and cash disbursements journals c. Client subsidiary ledgers d. Monthly trial balances of subsidiary ledger e. Monthly cash reconciliations <p>2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p> <p>3. Determine if IOLTA account. If not, and an interest-earning account, make certain that interest is credited to clients. <i>NOTE: Interest earned on client funds CANNOT be retained by the attorney.</i></p> <p>4. Obtain cash receipts journal.</p> <ul style="list-style-type: none"> a. Determine that entries identify source and date. b. Ascertain that journal has monthly totals. c. Determine that cash receipts entries can be proved to deposit totals. <p>5. Obtain cash disbursements journal.</p> <ul style="list-style-type: none"> a. Determine that entries show date, payee, and client name. b. Ascertain that journal has monthly totals. <p>6. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding. <i>NOTE: See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	<p>FIDUCIARY FUNDS (CONTINUED)</p> <p>B2 7. Review client subsidiary ledger. <i>NOTE: If a separate bank account has been set up for a specific client, transactions for that client must be recorded in a separate ledger account.</i></p> <p style="padding-left: 40px;">a. Determine that a separate account is maintained for each client for whom monies or other property have been received in trust.</p> <p style="padding-left: 40px;">b. Ascertain that all fiduciary transactions for cash receipts and cash disbursements (showing date, source/payee, and amount) are entered in the subsidiary ledger.</p> <p style="padding-left: 40px;">c. Verify that a listing is prepared each month from the subsidiary ledger. The listing must show: Client name, client balance, and the grand total of all client balances.</p> <p>B4 8. Determine if any attorney funds are in the fiduciary account. <i>NOTE: The attorney may maintain funds sufficient to pay bank service charges; however, such amount may not exceed \$500 and must be separately stated and accounted for on the monthly listing.</i></p> <p>B2 9. Inquire whether the attorney has received any property for safekeeping from a client, other than cash. If so, verify whether a subsidiary ledger account has been set up showing date of receipt or disbursement, description of property received or disbursed, and the amount or value.</p> <p>B3 10. Verify that the reconciled end-of-month cash balance (see fiduciary audit procedure no. 6) agrees with the total of all client funds being held (see fiduciary audit procedure no. 7c).</p> <p>B1 11. Examine monthly listing of client balances for the following:</p> <p style="padding-left: 40px;">a. Determine if any negative client balances (monies disbursed for client in excess of monies received for client). If any, attach details with attorney's explanation. <i>NOTE: A negative client balance indicates that other client funds are being used to fund the negative balance. A check should be drawn immediately from the operating account and deposited in the fiduciary account to cover the negative balance.</i></p> <p style="padding-left: 40px;">b. Determine age of client balances. If old balance, request reasons why funds have not been disbursed. Review documentation in client files, if necessary, to determine if good faith effort has been made to locate client and disburse funds. <i>NOTE: See Supreme Court rule for disposition of old, unclaimed client balances and old fiduciary account undeliverable, outstanding checks.</i></p> <p>B1, B4 c. Ascertain that no client balance represents fees earned by the attorney. <i>NOTE: The failure to remove earned fees from the fiduciary account on a timely basis represents commingling of client funds and attorney funds.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
	FIDUCIARY FUNDS (CONTINUED)			
B5	12. If any client funds are of significant amount and are held for a significant period of time, verify that a separate interest-earning bank account has been set up and the client was credited with the interest earned.			
B1	13. To test the timely deposit of client funds, select five deposits from bank statements or deposit tickets and trace to supporting documentation in client files. <i>NOTE: Attach workpaper, documenting test, to completed audit program.</i>			
B1	14. Perform the following to test the proper disbursement of client funds: a. Select five cases from the client subsidiary ledger or monthly listing. b. Review documentation in client files that support financial transactions. c. Examine cancelled checks (or images and/or copies thereof as provided by the bank) to verify disbursements. <i>NOTE: Attach workpaper, documenting test, to completed audit program.</i>			
A1	15. Review federal, state, and city payroll tax returns and tax depositories to verify the timely filing and payment of payroll taxes.			
I	RETAINERS (Rule 1.5(f) and Comment)			
B4	16. Inquire whether the attorney accepts retainers (payments in advance of a service being performed and prior to fee being earned).			
	17. Ascertain that retainers are being deposited in the escrow account. a. On a sample basis, trace deposits of large amount in operating account to transfer checks issued as earned fees from the escrow account. <i>NOTE: (1) In some situations (see Comment section of Rule 1.5(f)), retainers less than \$2,500 may be deposited in the operating account. (2) Attach workpaper, documenting test, to completed audit program.</i>			
B2	18. Obtain copy of retainer agreement and determine that the agreement states: a. The fee is refundable if not earned. b. The basis under which the fee shall be considered to be earned.			
B1	19. Make certain that, when earned fees are withdrawn from the escrow account, a statement is provided to the client showing the amount withdrawn and the remaining balance of the unearned retainer.			

LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM

INQUIRIES ANSWERED BY:

NAME

POSITION

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/ Exception	Work- paper Index
<p>B2</p> <p>B1</p> <p>B5</p> <p>B3</p> <p>B3</p> <p>B1</p>	<p>REAL ESTATE FUNDS</p> <p>NOTE: (1) A real estate bank account is a fiduciary account. (2) This audit program page is only necessary if a separate bank account is used exclusively for real estate settlement transactions. (3) Cash receipts and disbursements journals are not required for an account used exclusively for real estate settlement transactions.</p> <p>ACCOUNT NAME _____ BANK _____ BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p> <p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the real estate transaction. These records are:</p> <p style="padding-left: 40px;">a. Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank) b. Settlement sheets c. Other related documents</p> <p>2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p> <p>3. Determine if IOLTA account. If not, and interest-earning account, make certain that interest is credited to clients. NOTE: <i>Interest earned on client funds CANNOT be retained by the attorney.</i></p> <p>4. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding. NOTE: <i>See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</i></p> <p>5. If the adjusted bank balance is a positive number, verify that it is in agreement with the total of the listing, by client, of funds being held. NOTE: <i>This is a required monthly procedure.</i></p> <p>6. Perform the following to test whether deposits and disbursements are timely and proper.</p> <p style="padding-left: 40px;">a. Select five real estate settlements. b. Vouch deposits to supporting documentation. c. Examine cancelled checks and compare to documentation. NOTE: <i>Attach worksheet, documenting test, to completed audit program.</i></p>			